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021552
MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

TM02/0130

EXAMINER	
TESFAMARIAM, M	
ART UNIT	**PAPER NUMBER**
2162	6

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/488,079	David R. Montague
Examiner	**Group Art Unit**
Mussie Tesfamariam	2162

☒ Responsive to communication(s) filed on *Nov 14, 2000*

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) *1-26* is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-26* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Baron et al, 5809481. As per claim 1, Baron et al disclose a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47.

3. Claim 11-12, 14, 18, 19, 21, 23, 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Dlugos, Sr. et al, 5153842.

As per claim 11, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium

coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 12, Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 15-17.

As per claim 14 Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 14-17, col 3, lines 19-22, col 15, lines 24-27.

As per claim 18, Dlugos, Sr. et al disclose a label configured to be affixed to a product, the product having an exterior; the label configured to be attached to a tether having a first end and a second end; the first end configured to be coupled to the label; the second end configured to be coupled to the exterior of the product, such that the tether couples the label to the exterior of the product; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer -readable coupled to the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 19, Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 15-17.

As per claim 21, Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 14-17, col 3, lines 19-22, col 15, lines 24-27.

As per claim 23, Dlugos, Sr. et al disclose the product defines an opening into an interior of the product and at least part of the label is positioned in the interior of the product. See col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 24, Dlugos, Sr. et al disclose in configuring a label to directly communicate first information corresponding to at least one of a product and a source of the product; coupling a computer-readable medium to the label; and coupling the label to an exterior of the product. See col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

As per claim 25, Dlugos, Sr. et al disclose in the product is packaged. See col 1, lines 1-10, 20-27, 60-67.

As per claim 26, Dlugos, Sr. et al disclose in the label to the exterior of the product by a flexible member. See col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 as applied to claim 1 above, and further in view of Dlugos, Sr. et al, 5153842.

As per claim 2, Baron et al disclose in marketing database printed in a spreadsheet format. However, he fails specifically to disclose in the first information is printed on the label. Dlugos, Sr. et al disclose in the first information is printed on the label. See col 2, lines 14-17, col 3, lines 19-22. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will print the information on the label. This is because it would improve Baron's system to have visible information on the label.

As per claim 4, Baron et al disclose in the formats of display advertisement. See col 6, lines 28-30. However, he fails specifically to disclose in the label is shaped to provide the first information through a shape. Dlugos, Sr. et al disclose in the label is shaped to provide the first information through a shape. See fig 1a, fig 6, col 3, lines 9-15. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will provide the first information through a shape. This is because it would improve Baron's system to have easily available information through the shaped label.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 as applied to claim 1 above, and further in view of Christensen et al, 5710886.

As per claim 5, Baron et al disclose a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails to disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. Christensen et al disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. See fig 6, fig 11, fig 12, col 8, lines 66-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have vast gathering of information.

As per claim 6, Baron et al disclose a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails to disclose in at least one of a garment, footwear, headgear, a foodstuff, furniture, an appliance, sporting goods, dry goods, a tool, and a plant. Christensen et al disclose in at least one of a garment, footwear, headgear, a foodstuff, furniture, an appliance, sporting

goods, dry goods, a tool, and a plant. See fig 6, fig 12, fig 13, fig 14, column 1, lines 13-20, col 8, lines 58-62. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have variety of product information.

As per claim 7, Baron et al disclose in the product to protect the label prior to purchase. See the abstract, col 6, lines 23-26.

As per claim 8, Baron et al disclose in a hang tag, substantially enclosing the computer-readable medium. See the abstract, col 4, lines 28-30, 51-54, col 9, lines 31-32.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 in view of Dlugos, Sr. et al, 5153842 as applied to claim 2 above, and further in view of Markman, 5794213.

As per claim 3, Baron et al disclose in a label configured to be affixed to a product; the product having a surface associated therewith; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in a selection of color on the label. See the abstract, col 1, lines 41-44, 56, col 3, lines 22-25. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such

that it will select color on the label. This is because it would improve Baron's system to have visible information on the label.

8. Claim 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baron et al, 5809481 as applied to claim 1 above, and further in view of Tsai et al, 5825292.

As per claim 9, disclose in a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. Tsai et al disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. See the abstract, fig 1, col 1, lines 39-49, 62-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will include at least one of the mentioned medium in the above. This is because it would improve Baron's system to have different kinds of media.

As per claim 10, Baron et al disclose in a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 2, lines 18-10, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in at least one of the formats including compact disk, floppy disk, digital video disk, magnetic strip, bar code, symbolic code, and an embedded chip. Tsai et al disclose in at least one of the formats including compact disk, floppy disk, digital video disk, magnetic strip, bar code, symbolic code, and an embedded chip. See the abstract, fig 1, col 1, lines 19-14, 39-49, col 2, lines 1-1-10,

45-50. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will include at least one of the mentioned medium in the above. This is because it would improve Baron's system to have different kinds of media formatted in different ways.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 12 above, and further in view of Markman, 5794213.

As per claim 13, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails specifically to disclose in a selection of color on the label. See the abstract, col 1, lines 41-44, 56, col 3, lines 22-25. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will select color on the label. This is because it would improve Baron's system to have visible information on the label.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 19 above, and further in view of Markman, 5794213.

As per claim 3, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails specifically to disclose in a selection of color on the label. See the abstract, col 1, lines 41-44, 56, col 3, lines 22-25. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will select color on the label. This is because it would improve Baron's system to have visible information on the label.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 11 above, and further in view of Christensen et al, 5710886.
As per claim 15, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails to disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier.

Christensen et al disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. See fig 6, fig 11, fig 12, col 8, lines 66-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have vast gathering of information.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 11 above, and further in view of Baron et al, 5809481.

As per claim 16, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails to disclose in a hang tag, substantially enclosing the computer-readable medium. Baron et al disclose in a hang tag, substantially enclosing the computer-readable medium. See the abstract, col 4, lines 28-30, 51-54, col 9, lines 31-32. Therefore, it would have been obvious ordinary skill in the art at the time the invention was made to modify the system of Dlugos, Sr. et al such that it will include a hanging tag. This is because it would improve Dlugos' system to have different kinds of tags.

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 11 above, and further in view of Tsai et al, 5825292.

As per claim 9, disclose in a computer-readable medium coupled to the product by the label. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47. However, he fails specifically to disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. Tsai et al disclose in at least one of a printed medium, an electromagnetic medium, an optical medium, and a firmware medium. See the abstract, fig 1, col 1, lines 39-49, 62-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will include at least one of the mentioned medium in the above. This is because it would improve Baron's system to have different kinds of media.

14. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dlugos, Sr. et al, 5153842 as applied to claim 18 above, and further in view of Christensen et al, 5710886.

As per claim 15, Dlugos, Sr. et al disclose a label configured to be affixed to packaging substantially enclosing a product, and the packaging having an exterior; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and the packaging substantially the product; and a computer-readable medium coupled to the product by the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51. However, he fails to disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier.

Christensen et al disclose in at least one of product facts, source facts, a test, a browser, a launcher, and a network identifier. See fig 6, fig 11, fig 12, col 8, lines 66-67. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Baron such that it will contain information mentioned in the above. This is because it would improve Baron's system to have vast gathering of information.

Response to Amendment

15. Applicant's arguments filed on 11/14/2000 have been fully considered but they are not deemed to be persuasive with respect to claims 1-26.

16. The applicant argues for claim 1 that the defense of anticipation is improper. For a prior art reference to anticipate, every element of the claimed invention must be identically disclosed in a single prior art reference; and those elements must be arranged or connected together in a single reference in the same way as specified in the patent claim. The cited reference does not meet that test. Also, all elements of the claims must be considered. Claims are to be construed in light of the specification as it would be understood by those skilled in the art. Arbitrary definitions are to be avoided, as the words of the claim cannot be read in a vacuum, but must be viewed in the context of the application at hand.

Significant claim elements have been disregarded in this instance. For example, consumer-directed labels affixed to products are absent in the reference. The coupling to a product of a computer-readable medium, readable by a computer of an arbitrary user, by way of the product label is also absent from the reference. Applicant does not find a suggestion by the reference of the product structure that functions as the object of the label. Neither does Applicant find in the reference a hint at use of a label in conjunction with products.

An advantage of the claimed invention is that computer-readable labels affixed to products allows the vendor or manufacturer to convey to the purchaser of the product information which is specific to that particular product or which is so related as to be targeted to that user.

The examiner disagrees. During examination that Baro et al, 5809481 disclose every feature language of the claim. See the abstract, fig 1, fig 2, col 4, lines 22-30, col 5, lines 48-51, col 6, lines 23-27, col 7, lines 14-18, col 9, lines 35-47.

The Applicant also argues for claim 11 that the defense of anticipation is again improper here. Claim 11 relates to products and a computer-readable medium attached to the product by the label. Products are articles in the retail market, labeled for sale. Apparently, Dlugos, Sr. et al. relates to shipping containers transported marked with codes for handling by common carriers or for storage and retrieval in warehouses. The labels and the product relationships thereof of the claimed invention are not identical to nor related to the parcels taught in Dlugos, Sr. et al. Furthermore, the computer-readable medium is fundamentally different from that taught in Dlugos, Sr. et al. The computer-readable medium of the claimed invention is a medium readable by the conventional computer of an arbitrary purchaser. The preferred embodiment is a CD-ROM. Apparently, Dlugos, Sr. et al. discloses a computer-readable medium which requires special interface equipment such as a bar code reader or special interface cables, all dedicated to a system associated with the distribution network, not a retail purchaser, and not related to an arbitrary computer of a retail purchaser.

Applicant does not find labels affixed to products. Any suggestion of such seems to be absent in the reference. In addition, Applicant finds no suggestion or disclosure of a computer readable medium which may be read by an arbitrary purchaser's computer. Applicant respectfully submits that claim 11 is in condition for allowance, clearly defining over Dlugos Sr. et al.

The examiner disagrees. During examination that Dlugos Sr. et al, 5153842 disclose every feature language of the claim. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

The Applicant argues for claim 18, that tethers are absent in the reference so far as Applicant can find. Claim 18 recites a label attached to a product by way of a tether. Applicant finds no suggestion in the reference of a tether configured as recited by Applicant. Indeed, Applicant finds no mention of a tether by Dlugos, Sr. et al. Applicant respectfully submits that claim 18 distinguishes over Dlugos, Sr. et al., and is in condition for allowance.

The examiner disagrees. During examination that Dlugos, Sr. et al disclose a label configured to be affixed to a product, the product having an exterior; the label configured to be attached to a tether having a first end and a second end; the first end configured to be coupled to the label; the second end configured to be coupled to the exterior of the product, such that the tether couples the label to the exterior of the product; the label configured to directly communicate first information corresponding to at least one of the product and a source of the product; and a computer -readable coupled to the label. See the abstract, col 1, lines 1-10, 20-27, 60-67, col 2, lines 21-24, col 6, lines 34, col 7, lines 35, col 8, lines 43-51.

Therefore, all dependent claims are rejected due to their dependency on the rejected base claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mussie Tesfamariam** whose telephone number is **(703)305-1393**. The examiner can normally be reached on Monday - Friday from 8:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the **examiner's supervisor, Jim Trammell** can be reached at **(703) 305-9768**.

Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks

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or **faxed to:**

(703)308-9051, (for formal communications intended for entry)

Or:

(703)308-5357, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to **Crystal park II, 2121 Crystal Drive Arlington, Virginia, (Receptionist).**

Mussie Tesfamariam

January 26, 2001

JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100